HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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Writ Petition No. 11810 of 2005

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Dated: 1st September, 2005

Between:

Bandaru Venkata Subbaiah S/o.Venkata Swamy,

R/o.Seetharamapuram, Seetharamapuram Mandal,

Nellore District.

..... PETITIONER

AND

1.The District Collector, Nellore District and 3 others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.17204 of 2003

ORDER:

This writ petition has been filed by Bandaru Venkata Subbaiah assailing the action of the respondents in attempting to dispossess him from his patta land wherein he constructed a house bearing Door No.22 in Ward No.1 situated in Seetharamapuram Village and Mandal.

2. It is the case of the petitioner that the then Tahsildar, Udayagiri, Nellore District, assigned Ac.0.05 cents of land in Survey No.524 under proceedings bearing D.Dis.No.2202/1983 dated 25.06.1983. It is his further case that he constructed a house thereon and the house has been assessed to tax. He further states that the

respondents highhandedly demolished a portion of his house and thereupon he filed O.S.No.122 of 2005 on the file of the Junior Civil Judge, Atmakur, Nellore District, claiming damages of Rs.50,000/- and the said suit is pending. Apprehending further demolition, the petitioner has approached this Court by invoking the jurisdiction under Article 226 of the Constitution of India.

3. The respondents 3 and 4 filed counter affidavit. One P.C.Allururaju has sworn to the counter affidavit filed on their behalf. It is stated in the counter affidavit that the petitioner has encroached on the land bearing Survey No.524 and thereupon the Gram Panchayat has passed resolution on 06.08.2004 to take necessary steps to evict the petitioner from the encroached land. It is further stated in the counter affidavit that the petitioner, under the guise of patta for Ac.0.05 cents, is trying to encroach the vacant land of the Gram Panchayat. Therefore, the petitioner is an encroacher. I deem it appropriate to refer para. 3 of the counter affidavit and it is thus:

> "In reply to para.4 of the affidavit, it is not true to say that the Sarpanch and the Executive Authority are acting politically and given troubles to the petitioner. It is true that the petitioner has filed the suit in O.S.No.122 of 2005 in the Court of the Junior Civil Judge, Atmakur, for the damages of Rs.50,000/- against the respondents which is pending. The petitioner is an encroacher of the panchayat vacant land and he has given that room to rent for wine shop for getting rents. The encroached land is in Sy.No.60, which is a gram panchayat property. He has given false information that he is having the loan, shelter for him. He has given these shops for rent and he is having another two houses with assessment No.483, 494 by encroaching the panchayat property he is giving lot of trouble to the panchayat to construct shopping complex in the village as the Government is willing to provide funds to raise the gram panchayat income where it is a Mandal Head Quarter also. He is having two houses with House No.5-92 and 6/7/1. The remaining encroachers have vacated and cooperating with the gram panchayat and R & B Department."

4. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondents 3 and 4.

5. Learned counsel appearing for the petitioner submits that the respondents are contemplating to demolish the residential house of the petitioner, which is constructed on the site allotted to him in the year 1983. Whereas, it is the contention

of the learned Standing Counsel appearing for the respondents 3 and 4 that the petitioner, under the guise of assignment patta, is trying to encroach S.No.60, which is a panchayat vacant land.

6. The fact remains that the petitioner has been assigned Ac.0.05 cents of land in S.No.524, and therefore, he cannot lay his hands on S.No.60. So long as he continues to be in possession of the site, which he claims to have been allotted to him in the year 1983, the respondents 3 and 4 cannot have any objection. It is the grievance of the respondents 3 and 4 that the petitioner is trying to encroach on the panchayat vacant land, which is in Survey No.60. Such a dispute cannot be resolved in the writ petition. It is suffice to say that if the petitioner is to be evicted from the land in occupation, he shall be evicted through the process of law.

7. Accordingly, the writ petition is disposed of directing the respondents not to interfere with the possession of the petitioner except in accordance with law. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 1st September, 2005.

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